

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re the application of: Jeremy Thaler et al.) Group Art Unit: 1761
Filed: 11/10/2003 (10/705,657)) Examiner: H. Pratt
For: PEANUT BUTTER WITH AN ORGANIC)
STABILIZER AND METHOD FOR)
MANUFACTURE THEREOF)

AFFIDAVIT UNDER 37 CFR 1.131

Honorable Commissioner of Patents & Trademarks
PO Box 1450
Alexandria, VA, 22313-1450

Sir;

County of Livingston) S.S.
State of New York)

I, Jacobs W. Rawleigh, being duly sworn, depose and state:

1. I prepared two samples of "peanut butter" in accordance with the recipe set forth in "Joy of Cooking" by Irma S. Rombauer and Marion Rombauer Becker, published by Bobbs-Merril Co. 1988 (page 564; see Exhibit).

2. The samples were prepared with the alternative oils (safflower oil and vegetable oil) in accordance with the recipe set forth in the Exhibit (recipe quantities were doubled) and in the table below:

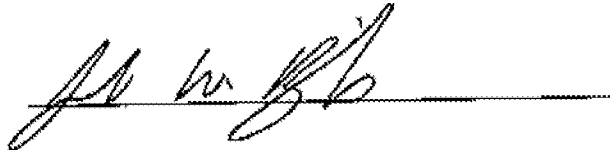
	<i>See Rombauer (Joy of Cooking) p. 564</i>	
Peanuts	2 cups	2 cups
Oil	4 TBSP safflower	4 TBSP vegetable
Mixing treatment	Blender	Blender

3. Within several days of their manufacture, the respective samples began to exhibit separation, as evidenced by a liquid layer forming on the top of the material in each jar. Inspection of the open jar for each sample revealed that if it were tipped, the liquid on the top would have flowed from the jar.

4. The jars were resealed with their lids, and I understand that the samples were then delivered to Duane C. Basch, Esq. It is my further understanding, based upon information and belief, that the samples were delivered by Mr. Basch to the U.S. Patent and Trademark Office on August 3, 2007.

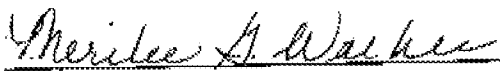
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

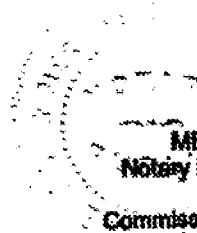
IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 8-7-07 day of August, 2007



STATE OF NEW YORK
COUNTY OF Livingston

On this 7th day of August, 2007, before me, a Jacob Rawleigh, to me known to be the person of that name, who signed and sealed the foregoing instrument and he acknowledges the same to be his free act and deed.


Notary Public


MERILEE G. WALKER
Notary Public, State of New York
Livingston County
Commission Expires June 4, 2010

Exhibit

564 KNOW YOUR INGREDIENTS

the more subtle European versions of our native hazelnuts.

HICKORIES AND NUTTERNUTS

Rich natives, like pecans, and they never need blanching.

MACADAMIA NUTS

Use these exotic, nutritious 1-inch-round nuts roasted or untoasted, in recipes calling for nuts; as cocktail snacks or as substitutes for Chinese chestnuts. As these nuts are hard to crack, try wrapping each one in heavy cloth and hammering it on a very hard surface. To roast, spread shelled nuts in a shallow pan and heat in a 250° oven 12 to 15 minutes, stirring often. Salt lightly and store in an airtight refrigerated container.

PINE OR INDIAN NUTS

Known also as piñon in Spain or pignola in Italy—where the variety is richer. These are good in Doimas, 492, and in Pesto, 570.

PISTACHIO NUTS

These nuts, loved for their green color and haunting flavor, are often used in farces or pâtés. To skin, spread on baking sheets and heat at 400° for 4 minutes. Cool and slip off skins.

ENGLISH AND AMERICAN WALNUTS AND PECANS

Walnuts are highly polyunsaturated. Blanching for 3 minutes rid them of an acid which some people find indigestible. Then dry and toast as indicated above. The English or Persian walnut and the American or black walnut are perhaps the most familiar. Hull at once after harvesting. Pecans are probably the heaviest in fat of all our natives, with sometimes as much as three-fourths of their bulk in fat.

PEANUTS

These underground legumes—also called groundnuts or, in their larger form, goobers—are high in valuable, if incomplete, proteins. If the heart is left in, they make a real contribution to the diet. The small Spanish types will grow in the northern states. All peanuts are best eaten right after roasting, before they get limp. If roasting them in the shell at home, keep the oven at 300° and roast 30 to 45 minutes, or 20 to 30 minutes if shelled. Turn them constantly to avoid scorching. Check for doneness by removing skins. The inner skins, heavy in thiamin, are pleasantly flavored. But little is gained by home roasting, as a steam process used commercially for roasting peanuts in the shell gives superior results. Discard any peanuts that are moldy.

PEANUT BUTTER

Federal regulations require commercial peanut butter to contain 80% shelled roasted ground peanuts, with additions of no more than 10% of salt, sweeteners and oil. However smooth and satisfying commercial peanut butters may seem, they are often made without the germ of the nut.

This valuable portion—as in grains—contains minerals, vitamins and proteins, yet it is literally in the birds. The commercial objection to germ is twofold: 1. It gives the butter a somewhat bitter flavor, and 2, as with whole grains, heat of processing and the heat in storage, cause the finished product to grow rancid. If you are smart, you will make your own full-bodied peanut butter in an electric blender. Use:

Fresh roasted or salted peanuts

It is wise to start with a bland oil:

Safflower or vegetable oil

Allow 1½ to 2 tablespoons oil to 1 cup peanuts.

If nuts are unsalted, add salt to taste:

About ½ teaspoon salt per cup

ABOUT SEEDS, GRAINS, BEANS AND PEAS

Be certain to use only seeds which have not been fumigated or treated with pesticides or fungicides. Sunflower, pumpkin, buckwheat, barley and squash seeds should be hulled before eating or using in recipes. All of these are flavorful and nutritionally valuable. To roast, see the general rule under Nuts, 562, however, to roast soybeans, soak ¼ cup beans overnight, refrigerated, in 1 cup water. Drain and dry thoroughly. Roast in a shallow pan about 2 hours in a 200° oven, then put pan under broiler to brown the soybeans. Use as is or season and mix with oil.

Poppy seeds come from *Papaver somniferum*, but the seed has no narcotic properties. The most desirable is grown in Holland and is a slate-blue color. The seed is best when roasted or steamed and crushed before use in cooking—so its full flavor is released. If it is one of your favorite flavors, it is worth getting a special hand-mill for grinding it. Use it in baked items and try it on noodles.

Sesame or benne seeds are a favorite topping for breads, cookies and vegetables. Their nutty flavor is strongest when the unhulled seeds are lightly toasted about 20 minutes in a 350° oven and stirred frequently. If hulled, the seeds are white. Crushed, they may be made into an oily paste, called Tahin, see below. Crushed sesame, together with cooked chick-peas, also forms the base for Hummus, 90. Sesame oil from the seeds is desirable in salads. For other seeds, see About Spices, 574, and Herbs, 577.

TAHIN

A thickest seed butter of yogurtlike consistency. Used in dressings or as a base for sauces. Combine in a blender:

4 tablespoons ground sesame seeds

1 teaspoon sesame oil

1 tablespoon lemon or lime juice

½ teaspoon salt

Add slowly while blending:

About ½ cup water

Remove from the blender and stir in if you wish: (3 to 2 pressed garlic cloves)

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